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August 25, 2023

VIA ECF

Honorable Paul A. Engelmayer
United States District Court
Southern District of New York
40 Foley Square, Room 2201
New York, NY 10007

Re: Ashleigh Awusie v. Hudson Yards Catering, LLC, et al.
Case No.: 1:22-cv-03162-PAE

Dear Judge Engelmayer:

We represent the Plaintiff in the above-referenced case. We write, for a third time, pursuant to Rule 2(c) of Your Honor's Individual Practice Rules and Local Civil Rule 37.2, regarding Defendants' failure to respond to Plaintiff's discovery requests. We also write in response to Defendants' recent letter motion pursuant to Rule 1.E of your Individual Rules and Practices. As such, Plaintiff respectfully requests an informal conference on this matter, and permission to file a Motion to Strike Defendants' Answer for failure to produce documents pursuant to Plaintiff's discovery demands.

On August 15, 2023, Plaintiff filed her second letter motion addressed to Your Honor regarding Defendants' failure to furnish interrogatories and document demands. Plaintiff also addressed that Defendants' furnished responses were severely deficient, citing that no documents were produced, and most interrogatories left unanswered absent baseless objections. That day, Your Honor ordered that Defendants file their response to Plaintiff's letter by August 16, 2023.

On August 16, 2023, Defendants filed their letter motion in response, in part requesting a unilateral extension of the fact discovery deadline. Your Honor rejected this request for an extension, for the reason that Defendants failed to confer with Plaintiff regarding the extension. As a courtesy, Your Honor granted Defendants a week-long extension, until August 25, 2023, to furnish their Document Production, as well as their requests.

On August 23, 2023, Defendants' counsel requested a meet and confer phone call with Plaintiff's counsel. During the call, Defendants' counsel requested Plaintiff's consent to file a joint discovery extension request with the Court.

On August 24, 2023, Plaintiff notified Defendants that due to the unnecessary delay thus far, she could not consent to any further extensions.

Later that day, Defendants served Plaintiff with their own requests for interrogatories, as well as their own document demands. However, Defendants have not provided any of Plaintiff's requested documents, and have done nothing to supplement their deficient interrogatory responses.

On August 25, 2023, Defendants filed another letter requesting an extension of the fact discovery deadline, without consent of Plaintiff.

Defendants, to date, have still not served their document production to Plaintiff.

As stated in Plaintiff's previous correspondence, as a result of Defendants' delay, Plaintiff has been prevented from reviewing documents, and the parties have been prevented from conducting depositions. While Plaintiff can recognize the difficulty that Defendants have faced as a result of staffing challenges, Defendants have had Plaintiff's requests in their possession since February 17, 2023, giving Defendants over six (6) months to respond appropriately. Defendants have failed to do so. Further, this delay has exacerbated Plaintiff's emotional distress by preventing her from moving forward with her claims in a timely manner.

Plaintiff respectfully requests that Your Honor deny the request for an extension of the fact discovery deadline, and instead grant Plaintiff permission to file a Motion to Strike Defendants' Answer for Failure to Produce Information and Documents for Your Honor's consideration. Further, Plaintiff respectfully requests that Your Honor grant said motion, and impose any other sanctions that the Court finds appropriate.

We thank Your Honor in advance for your consideration in this matter.

Respectfully Submitted,

/s/ Laura E. Bellini, Esq.

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The Court has reviewed defendants' motion to extend the fact-discovery deadline to October 25, 2023, *see* Dkt. 34, and plaintiff's motion for leave to file for sanctions for defendants' non-compliance with the Court's scheduling orders, *see* Dkt. 35. The Court GRANTS IN PART and DENIES IN PART both parties' motions.

As to defendants' motion, the fact-discovery deadline is extended to September 25, 2023. There will be no further extensions. As a result of this extension, the Court denies plaintiff's request for leave to move under Rule 37 as premature, without prejudice to the right to renew this application at the close of fact discovery. **The Court also schedules an in-person conference for Wednesday, September 6, 2023, at 9:30 am, in courtroom 1305 of the Thurgood Marshall United States Courthouse**, to enable the Court to assess whether defense counsel now has the personnel and procedures in place to attend to its discovery obligations so as to meet the above deadline. The Court further directs that a client representative of the defendant be present at the conference, as the Court wishes to impress on the client the gravity of the consequences that may be presented by defense counsel's dismaying inability to date to discharge basic discovery responsibilities. The Court expects counsel to work together collegially to complete the discovery process in this case.

SO ORDERED.

Dated: August 28, 2023
New York, New York

A handwritten signature in blue ink that reads "Paul A. Engelmayer". The signature is written in a cursive, flowing style.

PAUL A. ENGELMAYER
United States District Judge